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ABSTRACT

This lesson plan about Indiana's court system is designed to work with any classroom resources a teacher may use when teaching a U.S. history, government, or Indiana history class. The lesson also provides online suggestions, general legal links at the end of the lesson to aid a teacher or student interested in exploring other legal topics, and a comprehensive glossary of legal terms. The lesson cites learning objectives; suggests five learning activities; and addresses related Indiana social studies standards. It discusses the difference between a civil case and a criminal case and provides an organizational chart of the Indiana judicial system. (BT)

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Indiana Courts: How do they work?

A curriculum unit for secondary school teachers

2002

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Indiana Courts: How do they work?

A curriculum unit for secondary school teachers

This lesson plan is constructed to work with any resources a classroom teacher regularly uses in the course of teaching an American History, Government, or Indiana History class. In addition to the materials that a teacher might have at hand, some online suggestions are provided. A few general legal links are included at the bottom of the lesson to aid a teacher or student interested in further exploration of this or any other legal topic. A glossary of legal terms used in this and other Courts in the Classroom lesson plans is attached or is available on-line as well at [http://www.in.gov/judiciary/education/glossary.html].

Learning Objectives:

At the end of this lesson a student will be able to:

1. Identify the various branches of Indiana's judicial system
2. Understand and discuss the difference between trial and appellate courts
3. Understand and discuss the difference between a civil and a criminal case
4. Determine what is the appropriate place within the judicial system for a given case to be heard

Online Resources:

Indiana Constitution Article 7 http://www.in.gov/legislative/ic/code/const/art7.html
Indiana Code Title 33 http://www.in.gov/legislative/ic/code/title33/
Indiana's Judicial System http://www.in.gov/judiciary/education/lessons/ijs.html
Is it a Civil or Criminal Case? How to tell the difference – Handout attached
Chart of the Indiana Court System - Handout attached
http://www.in.gov/judiciary/education/chart.html

Learning Activities:

1. Divide the students into groups and ask them to create a flow chart showing how a civil and/or a criminal case works its way through the legal system. Provide different scenarios to each group.

   Suggested topics: a case resulting in the death penalty, a custody case, a case concerning the taxes on lottery winnings, a case about the probate of a will, a charge of slander, a suit concerning property damage resulting in a claim for less then $500

This lesson plan was written by Elizabeth R. Osborn, Special Assistant to the Chief Justice for Court History and Public Education. If you have any questions about this lesson, or ORAL ARGUMENTS ONLINE, feel free to contact her at (317) 233-8682 or eosborn@courts.state.in.us.

2. Using newspapers and magazines appropriate for your class (example: *Newsweek, Time for Kids, Scholastic Weekly*, a local newspaper), have students look for stories that involve the Judicial branch. Ask your students to decide which court would most likely deal with the particular topics they discovered.

3. A variation of activity number 2: Choose a case that has already worked its way through the judicial system. Have the students explore its path.

4. Ask students to brainstorm a list of rules and regulations that they are familiar with in their school or community. Choose one topic and conduct a mock trial. One set of students will prepare an argument to challenge the law and one side to defend it. If the losing side is unhappy with the judge's decisions you might continue the activity by proceeding with the appellate process.

   Topics might include: curfews, dress code, speed limits, recycling

5. Using a copy of the federal Constitution (see link provided below), have students look for similarities and differences between the constitutional provisions for the judicial branch in that document and in the Indiana Constitution. Compare the structure of Indiana's judicial branch to that of other states in the United States (see link provided below).

For Further Study:
The State of Indiana's official website [http://www.ai.org/] is a rich resource for the current activities of the executive branch, the legislature and the judiciary. It also provides links to up-to-date online texts of the Indiana Code [http://www.in.gov/legislative/ic/code/] and Constitution [http://www.in.gov/legislative/ic/code/const/].

The Library of Congress [http://www.loc.gov/] offers a vast number of resources online. These include historical documents such as the Constitution and the Bill of Rights [http://lcweb2.loc.gov/const/mdbquery.html] as well as links to current legislation and Congressional activities [http://thomas.loc.gov/].

The Legal Information Institute of the Cornell law school offers an on-line encyclopedia for legal research [http://www.lawschool.cornell.edu/library/encyclopedia/].

The Cornell law school's Legal Information Institute webpages [http://www.law.cornell.edu/] also provide links to decisions handed down from the U.S. Supreme Court and the federal courts [http://www.law.cornell.edu/federal/opinions.html] as well as opinions from state courts around the country [http://www.law.cornell.edu/opinions.html]. Links to each state's constitution and other related judicial issues can also be accessed from the Indiana Judiciary website.

Related Indiana Social Studies Standards
U.S. Government.3.6: Explain the functions of the courts of law in governments of the United States and the state of Indiana with emphasis on the principles of judicial review and an independent judiciary.

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U.S. Government.1.13: Examine fundamental documents in the American political tradition..., the United States Constitution,...the Indiana Constitutions of 1816 and 1851 to identify key ideas regarding the nature of limited government and the protection of individual rights.

U.S. Government.5.13: Practice civic skills and dispositions by participating in a group of activities such as simulated public hearings, mock trials, and debates.

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Glossary

Alternative Dispute Resolution: a way to settle a case without going to court; sometimes ADR is court ordered. Mediation and arbitration are examples of alternative dispute resolution.

Appeal: a proceeding undertaken by one of the parties in a lawsuit asking to have a decision reconsidered by a higher court or agency.

Appellant: the party who brings the appeal; usually the person who is unhappy with the lower court's decision.

Appellee: the person against whom the appeal is lodged; usually wants the lower court's decision to be upheld.

Bench Trial: a trial in which there is no jury and the judge decides the case.

Civil Suit: a case relating to private rights and remedies that are sought in court. Separate from criminal cases.

Compensatory damages: damages that are awarded to compensate an injured person for the actual (proven) injury or loss. Punitive damages are awarded in addition to actual damages when the intent is to punish the guilty party for an action.

Concurring opinion: an appellate court opinion that agrees with the vote (opinion) of the majority, but for a different reason. The concurring justice(s) write a separate opinion explaining how they reached their decision.

Criminal: a case in connection with the commission of a crime.

Defendant: the person who is charged with a crime (criminal case) or against whom damages are sought (civil case).

Denial of transfer: the court's refusal to grant a request for a motion or petition to "transfer" or take a case from a lower court.

De novo: to begin anew; for example, to have a new trial.

Dissenting opinion: an opinion written by one or more judges who disagree with the majority.

Direct appeal: a case that, if appealed, moves directly from the trial court to the supreme court; it bypasses intermediate appellate courts.

Effective January 1, 2001 the court must take on direct appeal death penalty cases, and they have chosen to allow direct appeals if the sentence was life without parole.

Grand Jury: a group of citizens who decide whether or not there is enough evidence to charge a suspect with a crime.

Interlocutory appeal: an appeal that occurs in the course of a trial; it is made before the trial court reaches a decision. During the interlocutory appeal, the trial is placed on hold so to speak.

Jury: a group of citizens chosen to hear a case and render a verdict based on the facts presented to them. Sometimes referred to as a "petit jury."

Jury Trial: often referred to as "trial by jury," this is a trial in which a jury tries the facts.

Note: The U.S. and Indiana Constitution's are not identical on this issue. The Indiana Constitution (Article 1 section 19) provides for a trial by jury in all criminal cases. Under the U.S. Constitution, however, "The right to a jury trial is established...but it is not an absolute right. The Supreme Court has stated that petty crimes (as those carrying a sentence of up to 6 months) do not require trial by jury. The right to a jury trial in a criminal case may be waived by the ``express and intelligent consent'' of the defendant...There is no right to a jury trial in equity cases. When a civil case involves both legal and equitable issues or procedure, either party may demand a jury trial (and failure to do so is taken as a waiver), but the judge may find that there is no right to jury trial because of equitable issues or claims." [http://www.FindLaw.com/ (choose the legal dictionary)]

Libel: harmful remarks, made in writing, that might injure a person's reputation (could also be in a picture sign, etc.). Slander refers to the same type remarks that are made verbally.

Majority opinion: an opinion that is signed by more then half of the judges considering a case. Sometimes it is called the main opinion.

Medical malpractice: a case involving a doctor's alleged failure to provide care at an acceptable level.

Opinion: a court's written explanation of its decision in a case. Not all opinions, however, are published.

Non-published opinions may be requested by contacting the Clerk's Office at (317) 232-1930. Published opinions for recent Indiana Court

of Appeals and Supreme Court cases can be found online at http://www.in.gov/judiciary/opinions/.

There are different types of opinions issued by the court, see also concurrent, dissenting and majority opinion.

Oral arguments: the presentation of information before an appellate court. Either the appellants or the appellees may request to make oral arguments before the court. The court does not have to agree to hear oral arguments; they may feel that the written record is sufficient. On the other hand, they may request that the representatives of each party present oral arguments.

Peremptory Challenge: a request by an attorney for either side to disqualify a juror; the attorney does not have to give a reason for his request. The number of peremptory challenges varies depending on the kind of case. Attorneys are also allowed to request that a juror be dismissed for cause. In a challenge for cause the attorney argues that the juror would not be able carry out his/her duties for some reason specified by the attorney.

Petition: a formal written request made to a court.

Petition to transfer: a request to the court, asking them to accept jurisdiction over a case.

Petit Jury: *see* jury

Plaintiff: The person who initiates a civil lawsuit.

Post-conviction relief: a request by a prisoner asking the court to nullify, cancel or correct a sentence.

Prosecution: in criminal cases it is the state (government) that initiates the case; they are referred to as the prosecution. In a civil case the person who initiates the case is called the plaintiff.

Punitive damages: punitive damages are awarded in addition to actual damages when the intent is to punish the guilty party for an action. They are generally awarded when it has been determined that the defendant acted with recklessness, malice, or deceit.

Remit: the court's reduction of the damages awarded in a jury trial.

Slander: harmful remarks that might injure a person's reputation that are made verbaliy. Libel refers to similar remarks that are made in writing, pictures, etc.

Statute of limitations: a legally established time limit (based on the date of the claim for civil cases or the crime for criminal cases) for entering a suit (civil) or beginning a prosecution (criminal). A reasonable time limit is established so that the defendant may still be able to find witnesses, evidence, etc. pertinent to the case.

Summary judgment: a judgment issued by a judge where there is agreement about a set of relevant facts. It is a procedural device that allows for the speedy resolution of some controversies without the need for a trial.

Toll: to stop the running of time, especially regarding time allowed before filing a lawsuit. See, statute of limitations.

Tort: a civil wrong; the remedy that is sought is usually a monetary award for damages

*This glossary is provided to help teachers and students gain a working knowledge of some of the terms used in our lesson plans; it is not intended to be a comprehensive legal dictionary.

The Find Law legal website is an invaluable tool for all people working with the law (http://www.findlaw.com/). The Find Law site includes access to a legal dictionary (http://dictionary.lp.findlaw.com/).

Voir Dire: the act or process of questioning prospective jurors, by the trial counsel or the trial judge, to determine which are qualified for service on a jury.

A CIVIL CASE OR A CRIMINAL CASE?

Our legal system recognizes two different kinds of law cases -- civil and criminal. A civil case is one in which a person who feels he or she has been wronged brings legal action in order to protect his or her interests and, if appropriate, to collect damages from the person who has wronged him or her. The case is started by the person whose rights have allegedly been violated. This person is known as the plaintiff. The person being sued is known as the defendant.

A criminal case, on the other hand, is one in which the local, State, or Federal Government begins the action in the name of its citizens. The plaintiff is the government acting on behalf of the people. The case is prosecuted and the plaintiff is represented in court by the State Attorney, Statewide Prosecution, or the U.S. Attorney. The accused, known as the defendant, is charged with a crime against society -- a violation of the laws regulating our conduct, such as murder, rape, conspiracy, or robbery. In addition, less serious conduct such as driving without a license or conducting door to door solicitation without a permit may also violate the criminal laws.

In a civil case, the person who feels he or she has been wronged decides whether or not to bring suit against the defendant. The person also decides how much money in damages to seek. The person cannot request that the defendant go to jail except in unusual cases where the defendant may have violated a court order.

In a criminal case, the prosecutor or a grand jury decides whether to initiate criminal proceedings, that is, to charge the defendant with violating a law.

In a civil case, it is up to the plaintiff, the person who has started the lawsuit, to prove his or her case with stronger evidence than the defendant has -- that is, by a preponderance of the evidence. In other words, the judge or jury must believe that the weight of the plaintiff's evidence is greater than the weight of the defendant's evidence, if the plaintiff is to win.

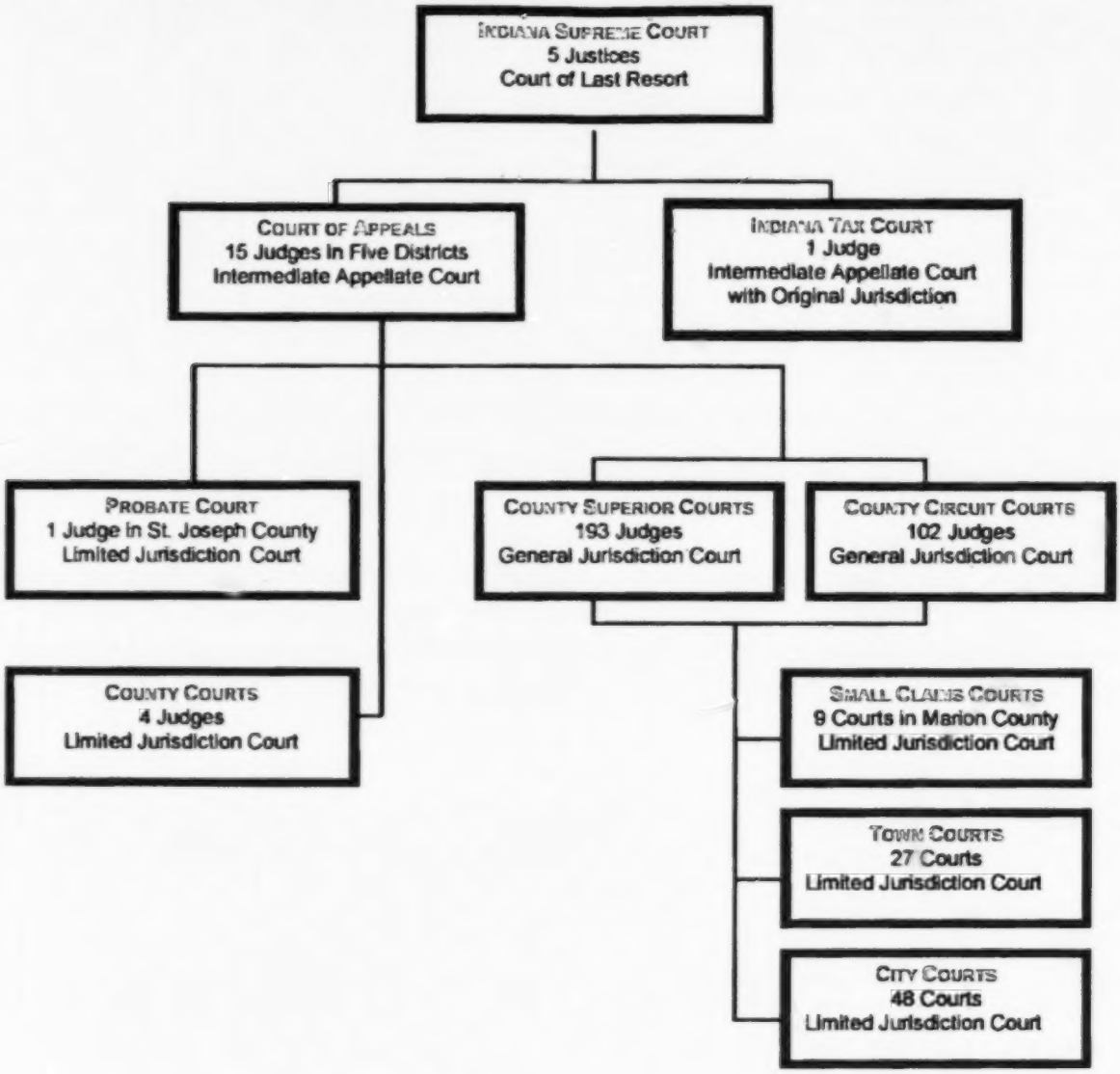
In a criminal case, because a person is presumed to be innocent until proven guilty, the prosecution must prove the case beyond a reasonable doubt. This does not mean beyond all possible doubt, but it does mean the court or jury must have an abiding conviction to a moral certainty of the truth of the charge. This is a much heavier burden of proof than there is in a civil case.

In a civil case, any person may be required to testify in court. Everyone has the right to hire and appear with his or her own attorney, but in a civil case an attorney is not automatically appointed to represent a person who cannot afford an attorney. However, in some circumstances, local legal aid organizations, as well as private attorneys, will agree to represent a person free of charge who cannot afford to hire a lawyer.

In a criminal case, the accused person cannot be made to testify, and has the right to a free attorney, an attorney appointed by the court, if the person doesn't have the money or property to hire one. The accused person in a criminal case has many other rights which defendants in a civil case do not have. A defendant in a civil case may also be the defendant in a criminal case for the same alleged act -- theft, for example.

If you are involved in either a civil or a criminal case, you should contact an attorney.

Organizational Chart of the Indiana Judicial System



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